

**Executive Summary – Enforcement Matter – Case No. 43992**  
**Klaas Talsma dba Talsma Dairy**  
**RN102313384**  
**Docket No. 2012-0840-AGR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AGR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Talsma Dairy, located on the south side of County Road ("CR") 540, approximately three-tenths mile southwest from the intersection of CR 540 and CR 209, and approximately four miles from the intersection of CR 209 and U.S. Highway 67, Erath County

**Type of Operation:**

Concentrated animal feeding operation ("CAFO")

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 21, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$49,687

**Amount Deferred for Expedited Settlement:** \$9,937

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$3,318

**Total Due to General Revenue:** \$36,432

Payment Plan: 11 payments of \$3,312 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 43992**  
**Klaas Talsma dba Talsma Dairy**  
**RN102313384**  
**Docket No. 2012-0840-AGR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 24, 2012, February 19, 2012, and March 20, 2012

**Date(s) of NOE(s):** April 11, 2012

***Violation Information***

1. Failed to prevent a discharge of wastewater from a CAFO caused by operating a pivot irrigation system during a rainfall event. Specifically, it was reported that approximately 192,000 gallons of wastewater was irrigated over a four- hour period on January 24, 2012, resulting in a discharge of wastewater into a fresh water pond [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0003145000, Section VII.A.8.(f)(2), Irrigation Operating Requirements, Section VI.A., Discharge Authorization, 30 TEX. ADMIN. CODE §§ 321.40(f) and 321.31(a), and TEX. WATER CODE § 26.121(a)].
2. Failed to prevent a discharge of wastewater from a CAFO caused by not maintaining a margin of safety in the Retention Control Structure (“RCS”) to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event. Specifically, Respondent did not maintain the required rainfall capacity in RCS No. 1 since October 7, 2011 and subsequently irrigated approximately 81,000 gallons of wastewater over a nine-hour period on February 19, 2012 [TPDES Permit No. WQ0003145000, Section VII.A.3.(e), Irrigation Equipment Design, Section VII.A.5.(a), Operation and Maintenance of RCS, Sections IX.E. and IX.S., Standard Permit Conditions, 30 TEX. ADMIN CODE §§ 321.42(c)(1) and (d), 321.36(c) and 321.39(b)(1), and TEX. WATER CODE § 26.121(a)].
3. Failed to dispose of exported waste by utilizing an approved method. Specifically, slurry was on property adjacent to the home of the owner/operator of the Facility, which is not authorized for land application [TPDES Permit No. WQ0003145000, Section VII.A.8.(e), Exported Wastewater, Sludge, and/or Manure and 30 TEX. ADMIN CODE § 321.42(i)].
4. Failed to prevent a discharge of wastewater from a CAFO by not maintaining a margin of safety in the RCS to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event. Specifically, Respondent did not maintain the required rainfall capacity in RCS No. 1 and irrigated approximately 108,000 gallons of wastewater in Land Management Unit (“LMU”) No. 1 over a twelve-hour period on March 20, 2012. An unknown amount of wastewater discharged off the LMU into an onsite pond to an un-named tributary of the Duffau Creek in the North Bosque River in Segment No. 1226 of the Brazos River Basin [TPDES Permit No. WQ0003145000, Section VII.A.5.(a), Operation and Maintenance of RCSs, Sections IX.E. and IX.S.,

**Executive Summary – Enforcement Matter – Case No. 43992**  
**Klaas Talsma dba Talsma Dairy**  
**RN102313384**  
**Docket No. 2012-0840-AGR-E**

Standard Permit Conditions, 30 TEX. ADMIN CODE §§ 321.42(c)(1) and (d), and 321.36(c) and 321.39(b)(1) and TEX. WATER CODE § 26.121(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Immediately, cease operating the irrigation system during rainfall events;
- b. Within 30 days, begin disposing of exported waste by utilizing approved methods only;
- c. Within 45 days, submit written certification of compliance with Ordering Provisions a. and b.;
- d. Within 60 days, begin maintaining a margin of safety in the RCS to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event; and
- e. Within 75 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinatr:** N/A

**Respondent:** Klaas Talsma, Owner, Talsma Dairy, 7469 CR 209, Hico, Texas 76457

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

## DATES

Assigned 4-Jun-2012  
PCW 12-Jun-2012

Screening 11-Jun-2012

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Klaas Talsma dba Talsma Dairy  
Reg. Ent. Ref. No. RN102313384  
Facility/Site Region 4-Dallas/Fort Worth Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 43992  
Docket No. 2012-0840-AGR-E  
Media Program(s) Water Quality  
Multi-Media  
No. of Violations 1  
Order Type 1660  
Government/Non-Profit No  
Enf. Coordinator Jorge Ibarra, P.E.  
EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000

## Penalty Calculation Section

### TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$11,250

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 59.0% Enhancement Subtotals 2, 3, & 7 \$6,637

Notes Enhancement for one order containing denial of liability, one order without denial of liability, and seven NOV's with dissimilar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement\* Subtotal 6 \$0

Total EB Amounts \$0  
Approx. Cost of Compliance \$0  
\*Capped at the Total EB \$ Amount

### SUM OF SUBTOTALS 1-7

Final Subtotal \$17,887

### OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$17,887

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$17,887

### DEFERRAL

20.0% Reduction Adjustment -\$3,577

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

### PAYABLE PENALTY

\$14,310

Screening Date 11-Jun-2012

Docket No. 2012-0840-AGR-E

PCW

Respondent Klaas Talsma dba Talsma Dairy

Policy Revision 3 (September 2011)

Case ID No. 43992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102313384

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 59%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one order containing denial of liability, one order without denial of liability, and seven NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 59%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 59%

Screening Date 11-Jun-2012

Docket No. 2012-0840-AGR-E

PCW

Respondent Klaas Talsma dba Talsma Dairy

Policy Revision 3 (September 2011)

Case ID No. 43992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102313384

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System Permit No. WQ0003145000, Section VII.A.5.(a), Operation and Maintenance of Retention Control Structures ("RCSs"), Sections IX.E. and IX.S., Standard Permit Conditions, 30 Tex. Admin Code §§ 321.42(c)(1) and (d), 321.36(c) and 321.39(b)(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent a discharge of wastewater from a concentrated animal feeding operation by not maintaining a margin of safety in the RCS to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event. Specifically, the Respondent did not maintain the required rainfall capacity in RCS No. 1 and irrigated approximately 108,000 gallons of wastewater in Land Management Unit ("LMU") No. 1 over a twelve-hour period on March 20, 2012. An unknown amount of wastewater discharged off the LMU into an onsite pond to an un-named tributary of the Duffau Creek in the North Bosque River in Segment No. 1226 of the Brazos River Basin.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		15.0%
Potential				

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 3 83 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the investigation date of March 20, 2012 to the screening date of June 11, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$17,888

This violation Final Assessed Penalty (adjusted for limits) \$17,888

# Economic Benefit Worksheet

**Respondent** Klaas Talsma dba Talsma Dairy  
**Case ID No.** 43992  
**Reg. Ent. Reference No.** RN102313384  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit of Violation No. 2 on the accompanying PCW.

## Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	16-Apr-2012	<b>Screening</b>	17-Apr-2012	<b>EPA Due</b>	
	<b>PCW</b>	19-Apr-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Klaas Talsma dba Talsma Dairy		
<b>Reg. Ent. Ref. No.</b>	RN102313384		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43992	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-0840-AGR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$20,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	59.0%	Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$11,800
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Notes

Enhancement for one order containing denial of liability, one order without denial of liability, and seven NOV's with dissimilar violations.

<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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Notes

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$190  
Approx. Cost of Compliance \$4,500

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$31,800
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$31,800
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$31,800
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$6,360
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$25,440
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Screening Date 17-Apr-2012

Docket No. 2012-0840-AGR-E

PCW

Respondent Klaas Talsma dba Talsma Dairy

Policy Revision 3 (September 2011)

Case ID No. 43992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102313384

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 59%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one order containing denial of liability, one order without denial of liability, and seven NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 59%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 59%

Screening Date 17-Apr-2012

Docket No. 2012-0840-AGR-E

PCW

Respondent Klaas Talsma dba Talsma Dairy

Policy Revision 3 (September 2011)

Case ID No. 43992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102313384

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003145000, Section VII.A.8.(f)(2), Irrigation Operating Requirements, Section VI.A., Discharge Authorization, 30 Tex. Admin. Code §§ 321.40(f) and 321.31(a), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent a discharge of wastewater from a concentrated animal feeding operation ("CAFO") caused by operating a pivot irrigation system during a rainfall event. Specifically, approximately 192,000 gallons of wastewater was irrigated over a four-hour period on January 24, 2012, resulting in a discharge of wastewater into a fresh water pond.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 3

84 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the investigation date of January 24, 2012 to the screening date of April 17, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$17,888

This violation Final Assessed Penalty (adjusted for limits) \$17,888

# Economic Benefit Worksheet

**Respondent** Kiaas Talsma dba Talsma Dairy  
**Case ID No.** 43992  
**Reg. Ent. Reference No.** RN102313384  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$500	24-Jan-2012	1-Nov-2012	0.77	\$19	n/a	\$19
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to cease irrigating during rainfall events. Date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 17-Apr-2012

Docket No. 2012-0840-AGR-E

PCW

Respondent Klaas Talsma dba Talsma Dairy

Policy Revision 3 (September 2011)

Case ID No. 43992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102313384

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0003145000, Section VII.A.3.(e), Irrigation Equipment Design, Section VII.A.5.(a), Operation and Maintenance of Retention Control Structures ("RCSs"), Sections IX.E. and IX.S., Standard Permit Conditions, 30 Tex. Admin Code §§ 321.42(c)(1) and (d), 321.36(c) and 321.39(b)(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent a discharge of wastewater from a CAFO by not maintaining a margin of safety in the RCS to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event. Specifically, the Respondent did not maintain the required rainfall capacity in RCS No. 1 since October 7, 2011 and subsequently irrigated approximately 81,000 gallons of wastewater over a nine-hour period on February 19, 2012.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual		X	
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 2

58 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the investigation date of February 19, 2012 to the screening date of April 17, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$133

Violation Final Penalty Total \$11,925

This violation Final Assessed Penalty (adjusted for limits) \$11,925

# Economic Benefit Worksheet

**Respondent** Klaas Talsma dba Talsma Dairy

**Case ID No.** 43992

**Reg. Ent. Reference No.** RN102313384

**Media** Water Quality

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment	\$1,000	19-Feb-2012	1-Dec-2012	0.78	\$3	\$52	\$55
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	19-Feb-2012	1-Dec-2012	0.78	\$78	n/a	\$78

**Notes for DELAYED costs**

Estimated cost to begin maintaining a margin of safety in the RCS, to include any equipment repairs. Date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$3,000

**TOTAL**

\$133

**Screening Date** 17-Apr-2012  
**Respondent** Klaas Talsma dba Talsma Dairy  
**Case ID No.** 43992  
**Reg. Ent. Reference No.** RN102313384  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jorge Ibarra, P.E.

**Docket No.** 2012-0840-AGR-E

**PCW**

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**Violation Number** 3

**Rule Cite(s)**

TPDES Permit No. WQ0003145000, Section VII.A.8.(e), Exported Wastewater, Sludge, and/or Manure and 30 Tex. Admin Code § 321.42(i)

**Violation Description**

Failed to dispose of exported waste by utilizing an approved method. Specifically, slurry was on property adjacent to the home of the owner/operator of the Facility, which is not authorized for land application.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

**Percent** 5.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

**Matrix Notes**

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

**Adjustment** \$23,750

\$1,250

**Violation Events**

**Number of Violation Events** 1

58 **Number of violation days**

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the investigation date of February 19, 2012 to the screening date of April 17, 2012.

**Good Faith Efforts to Comply**

**0.0%** Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

**Notes**

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$37

**Violation Final Penalty Total** \$1,988

**This violation Final Assessed Penalty (adjusted for limits)** \$1,988

# Economic Benefit Worksheet

**Respondent** Klaas Talsma dba Talsma Dairy

**Case ID No.** 43992

**Reg. Ent. Reference No.** RN102313384

**Media** Water Quality

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	19-Feb-2012	15-Nov-2012	0.74	\$37	n/a	\$37

Notes for DELAYED costs

Estimated cost to begin disposing of exported waste by an approved method. Date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$37

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601214265	TALSMA, KLAAS	Classification: AVERAGE	Rating: 7.40
Regulated Entity:	RN102313384	TALSMA DAIRY	Classification: AVERAGE	Site Rating: 19.21
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EF0070L	
	WASTEWATER AGRICULTURE	PERMIT	WQ0003145000	
	WASTEWATER AGRICULTURE	EPA ID	TX0130249	
	WASTEWATER AGRICULTURE	EPA ID	TX0103249	
Location:	Located on the south side of County Road ("CR") 540, approximately three-tenths mile southwest from the intersection of CR 540 and CR 209, and approximately four miles from the intersection of CR 209 and United States Highway 67 in Erath County, Texas			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 17, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 17, 2007 to April 17, 2012			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra Phone: (817) 588-5890

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/20/2008

ADMINORDER 2007-0543-AGR-E

Classification: Major

Citation: 30 TAC Chapter 321, SubChapter B 321.42(s)

Description: Failure to develop and operate under a comprehensive nutrient management plan (CNMP) certified by the Texas State Soil and Water Conservation Board by December 31, 2006.

Effective Date: 03/12/2009

ADMINORDER 2008-1146-AGR-E

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 321, SubChapter B 321.31(a)

Description: Failure to prevent a discharge of wastewater from an animal feeding operation (AFO) into or adjacent to waters in the state, except in accordance with an individual water quality permit issued by the commission, or a concentrated animal feeding operation (CAFO) general permit or other authorization issued or adopted by the commission.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.33(a)

Description: Failure to obtain an individual water quality permit prior to commencing physical construction and/or operation of any new control facilities.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/16/2007	(567696)
2	02/29/2012	(612355)
3	06/13/2008	(657127)
4	11/23/2009	(708203)
5	11/20/2008	(708461)
6	12/08/2008	(709979)
7	05/26/2009	(726826)
8	04/13/2010	(760053)
9	03/23/2010	(796780)
10	10/05/2011	(797971)
11	10/19/2010	(844231)
12	12/14/2010	(884660)
13	08/15/2011	(948552)
14	10/05/2011	(955831)
15	12/16/2011	(974399)
16	04/11/2012	(983744)
17	04/11/2012	(987512)
18	02/14/2012	(987726)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/08/2008	(612355)	CN601214265
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.39(f)(1)(D)		
Description:	Failure to maintain manure sample results in the PPP.		
Date:	01/07/2009	(721491)	CN601214265
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.40(h)		
Description:	Failure to maintain no less than 100 feet of vegetation between manure, litter, or wastewater application areas and water in the state. 31.40(h)		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.31(b)		
Description:	Failure to operate an AFO in such a manner as to prevent the creation of a nuisance or a condition of air pollution as mandated by Texas Health and Safety Code, Chapter 341 and Chapter 382. 321.40(b) Manure was spilled along County Road 209.		
Date:	11/23/2009	(708203)	CN601214265
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.33(a) WQ0003145000 Special Provision K PERMIT		
Description:	Failure to design construct and maintain the grassed waterway in LMU 1 as described in NRCS Practice Standard Code 412. Permit WQ0003145000, Special Provision K.1.		
Date:	08/06/2010	(844231)	CN601214265
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.40(h) WQ0003145000/VII.A.8.(d)(1) OP		
Description:	Failure to maintain a 100 foot vegetative buffer between manure, litter, or wastewater application areas and water in the state. 321.40(h)		
Date:	08/15/2011	(948552)	CN601214265
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.43(j)(5)(B) 30 TAC Chapter 321, SubChapter B 321.47(d)(2)		

Description: Failure to maintain proper pen drainage. Earthen pen areas shall be maintained to ensure good drainage by scraping uncompacted manure and shaping pen surfaces as necessary to minimize odors and ponding and to minimize the entrance of uncontaminated storm water to the RCS. The berm along the southeast part of the production area was not maintained and could allow a discharge in a rain event.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.39(b)(5)  
30 TAC Chapter 321, SubChapter B 321.47(e)(7)

Description: Failure to ensure no tree shall be allowed to grow such that the root zone would intrude or compromise the structure of the liner. Any mechanical or structural damage to the liner shall be evaluated by a licensed Texas professional engineer within 30 days of the damage. Trees were observed growing in settling basin #1.

Date 10/05/2011 (955831) CN601214265

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.33(a)  
WQ0003145000 Special Provision K PERMIT

Description: Failure to design construct and maintain the grassed waterway in LMU 1 as described in NRCS Practice Standard Code 412. Permit WQ0003145000, Special Provision K.1.

Date 02/14/2012 (987726) CN601214265

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.43(j)(5)(B)  
30 TAC Chapter 321, SubChapter B 321.47(d)(2)

Description: Failure to maintain proper pen drainage. Earthen pen areas shall be maintained to ensure good drainage by scraping uncompacted manure and shaping pen surfaces as necessary to minimize odors and ponding and to minimize the entrance of uncontaminated storm water to the RCS. The berm along the southeast part of the production area was not maintained and could allow a discharge in a rain event.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.39(b)(5)  
30 TAC Chapter 321, SubChapter B 321.47(e)(7)

Description: Failure to ensure no tree shall be allowed to grow such that the root zone would intrude or compromise the structure of the liner. Any mechanical or structural damage to the liner shall be evaluated by a licensed Texas professional engineer within 30 days of the damage. Trees were observed growing in settling basin #1.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
KLAAS TALSMa DBA TALSMa  
DAIRY  
RN102313384**

**§ BEFORE THE  
§  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-0840-AGR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Klaas Talsma dba Talsma Dairy ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concentrated animal feeding operation ("CAFO") located on the south side of County Road ("CR") 540, approximately 0.3 mile southwest from the intersection of CR 540 and CR 209, and approximately four miles from the intersection of CR 209 and United States Highway 67 in Erath County, Texas (the "Facility").
2. The Respondent has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 16, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Nine Thousand Six Hundred Eighty-Seven Dollars (\$49,687) is assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Three Hundred Eighteen Dollars (\$3,318) of the administrative penalty and Nine Thousand Nine Hundred Thirty-Seven Dollars (\$9,937) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Thirty-Six Thousand Four Hundred Thirty-Two Dollars (\$36,432) of the administrative penalty shall be payable in eleven monthly payments of Three Thousand Three Hundred Twelve Dollars (\$3,312) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent a discharge of wastewater from a CAFO caused by operating a pivot irrigation system during a rainfall event, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003145000, Section VII.A.8.(f)(2), Irrigation Operating Requirements, Section VI.A., Discharge Authorization, 30 TEX. ADMIN. CODE §§ 321.40(f) and 321.31(a), and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on January 24, 2012. Specifically, it was

reported that approximately 192,000 gallons of wastewater was irrigated over a four-hour period on January 24, 2012, resulting in a discharge of wastewater into a fresh water pond.

2. Failed to prevent a discharge of wastewater from a CAFO caused by not maintaining a margin of safety in the Retention Control Structure ("RCS") to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event, in violation of TPDES Permit No. WQ0003145000, Section VII.A.3.(e), Irrigation Equipment Design, Section VII.A.5.(a), Operation and Maintenance of RCS, Sections IX.E. and IX.S., Standard Permit Conditions, 30 TEX. ADMIN CODE §§ 321.42(c)(1) and (d), 321.36(c) and 321.39(b)(1), and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on February 19, 2012. Specifically, the Respondent did not maintain the required rainfall capacity in RCS No. 1 since October 7, 2011 and subsequently irrigated approximately 81,000 gallons of wastewater over a nine-hour period on February 19, 2012.
3. Failed to dispose of exported waste by utilizing an approved method, in violation of TPDES Permit No. WQ0003145000, Section VII.A.8.(e), Exported Wastewater, Sludge, and/or Manure and 30 TEX. ADMIN CODE § 321.42(i), as documented during an investigation conducted on February 19, 2012. Specifically, slurry was on property adjacent to the home of the owner/operator of the Facility, which is not authorized for land application.
4. Failed to prevent a discharge of wastewater from a CAFO by not maintaining a margin of safety in the RCS to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event, in violation of TPDES Permit No. WQ0003145000, Section VII.A.5.(a), Operation and Maintenance of RCSs, Sections IX.E. and IX.S., Standard Permit Conditions, 30 TEX. ADMIN CODE §§ 321.42(c)(1) and (d), and 321.36(c) and 321.39(b)(1) and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on March 20, 2012. Specifically, the Respondent did not maintain the required rainfall capacity in RCS No. 1 and irrigated approximately 108,000 gallons of wastewater in Land Management Unit ("LMU") No. 1 over a twelve-hour period on March 20, 2012. An unknown amount of wastewater discharged off the LMU into an onsite pond to an un-named tributary of the Duffau Creek in the North Bosque River in Segment No. 1226 of the Brazos River Basin.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: Klaas Talsma dba Talsma Dairy, Docket No. 2012-0840-AGR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease operating the irrigation system during rainfall events, in accordance with 30 TEX. ADMIN CODE § 321.40(f);
  - b. Within 30 days after the effective date of this Agreed Order, begin disposing of exported waste by utilizing approved methods only, in accordance with TPDES Permit No. WQ0003145000, Section VII.A.8.(e), Exported Wastewater, Sludge, and/or Manure;
  - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a. and 2.b., in accordance with Order Provision No. 2.e. below;
  - d. Within 60 days after the effective date of this Agreed Order, begin maintaining a margin of safety in the RCS to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event, in accordance with TPDES Permit No. WQ0003145000, Section VII.A.5.(a), Operation and Maintenance of RCS; and
  - e. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and

accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Jones  
For the Executive Director

10/26/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]  
Signature

7-17-2012  
Date

Klaas Talsma  
Name (Printed or typed)  
Authorized Representative of  
Klaas Talsma dba Talsma Dairy

Owner  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.